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ATTORNEYS FOR DEBTOR

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

IN RE:

CHRISTOPHER A. NOVINGER

Debtor.

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CASE NO. 16-40316

CHAPTER 7

MOTION TO REOPEN CASE

NO HEARING WILL BE CONDUCTED HEREON UNLESS A WRITTEN RESPONSE IS FILED WITH THE CLERK OF THE UNITED STATES BANKRUPTCY COURT AT 147 U.S. COURTHOUSE, 501 W. TENTH STREET, FORT WORTH, TX 76102-3643 ON OR BEFORE JUNE 27, 2019, WHICH IS AT LEAST 21 DAYS FROM THE DATE OF SERVICE HEREOF.

ANY RESPONSE SHALL BE IN WRITING AND FILED WITH THE CLERK, AND A COPY SHALL BE SERVED UPON COUNSEL FOR THE MOVING PARTY PRIOR TO THE DATE AND TIME SET FORTH HEREIN. IF A RESPONSE IS FILED A HEARING MAY BE HELD WITH NOTICE ONLY TO THE OBJECTING PARTY.

IF NO HEARING ON SUCH NOTICE OR MOTION IS TIMELY REQUESTED, THE RELIEF REQUESTED SHALL BE DEEMED TO BE UNOPPOSED, AND THE COURT MAY ENTER AN ORDER GRANTING THE RELIEF SOUGHT OR THE NOTICED ACTION MAY BE TAKEN.

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

COMES NOW Christopher A. Novinger, Debtor in the above entitled and numbered case (“Debtor”), and files this, his *Motion to Reopen Case* (“Motion”), and in support thereof would

respectfully show unto the Court as follows:

I.

JURISDICTION & VENUE

1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1334, 28 U.S.C. § 157(b)(1), and the standing order of reference of the District Court.
2. This matter is a core proceeding under 28 U.S.C. § 157(b)(2).
3. Venue is proper under 28 U.S.C. §§ 1408 and 1409.

II.

FACTUAL BACKGROUND

4. Christopher A. Novinger, Debtor, is an individual residing in the State of Texas.
5. This case was commenced as a Chapter 7 on January 22, 2016. The Debtor received his discharge on May 16, 2016. The case was closed as a no asset case on January 31, 2019.
6. Debtor scheduled potential causes of action against Conestoga, DeLeon, and Washburn for fraud, misrepresentation and breach of contract.
7. Debtor now believes that, as against DeLeon and Conestoga, he has meritorious claims for negligence, breach of fiduciary duty, fraud, and conspiracy. Debtor believes such claims would, upon trial or settlement, have distributable value to creditors.
8. On such basis, Debtor brings this instant Motion.

III.

ARGUMENTS & AUTHORITIES

9. Pursuant to 11 U.S.C. § 350(b) and Fed. R. Bank. P. 5010, on the motion of a party in interest this Court may reopen a bankruptcy case for cause:

A case may be reopened in the court in which such case was closed to administer assets, to accord relief to the debtor, or for other cause. 11 U.S.C. § 350(b).

A case may be reopened on motion of the debtor or other party in interest pursuant to § 350(b) of the Code. Fed. R. Bank. P. 5010.

10. The Court has broad discretion and “significant flexibility” in deciding whether to reopen

a bankruptcy case. *Weaver v. Tex. Capital Bank NA (In re SL Mgmt., LLC)*, Nos. 08-40143-rfn-11, 09-04254, 2010 Bankr. LEXIS 1074, at *11 (Bankr. N.D. Tex. 2010); *see also Litto Loan Servicing, L.L.P. v. Eads (In re Eads)*, 417 B.R. 728, 742 n.16 (Bankr. E.D. Tex. 2009). This discretion “depends upon the circumstances of the individual case and accords with the equitable nature of all bankruptcy proceedings.”¹ The bankruptcy court “should exercise its equitable powers with respect to substance and not technical considerations that will prevent substantial justice.”²

11. In fact, the catch-all phrase “for other cause” in Section 350(b) is a generous term that is designed to encompass a wide range of circumstances that could not be anticipated by the statute's drafters.³

12. Here, Debtor seeks to reopen the case so the trustee may appropriately administer the causes of action, which are assets of the bankruptcy estate, and generate value for the Creditors. Debtor argues that this new prospective value constitutes good cause and aligns with the underlying purposes of the bankruptcy construct.

13. 11 U.S.C. § 350(b) expressly provides for the reopening of a case to administer assets. What Debtor seeks herein is exactly that: to reopen the case so that the trustee, with full knowledge, may administer the causes of action for the benefit of the estate and its creditors.

WHEREFORE, PREMISES CONSIDERED, Debtor prays that the Court enter an order directing the Clerk of the Court to reopen the case and that the Court grant such other and further relief as it may deem just and proper.

¹ *Citizens Bank & Trust Co. v. Case (In re Case)*, 937 F.2d 1014, 1018 (5th Cir. 1991) (“The phrase ‘or other cause’ as used in § 350(b) is a broad term which gives the bankruptcy court discretion to reopen a closed estate or proceeding when cause for reopening has been shown.”).

² *In re Shondel*, 950 F.2d 1301, 1304 (7th Cir. 1991).

³ *See In re Hofmann*, 248 B.R. 79, 88 (Bankr. W.D. Tex. 2000).

Dated: June 6, 2019

Respectfully Submitted,

/s/ Joyce W. Lindauer

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ATTORNEYS FOR DEBTOR

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on June 6, 2019, a true and correct copy of the foregoing Motion was forwarded via email pursuant to the Court's ECF system to those parties receiving electronic notice in this case and/or via United States first class mail, postage prepaid, to the parties on the attached service list.

/s/ Joyce W. Lindauer

Joyce W. Lindauer

Label Matrix for local noticing 0539-4 Case 16-40316-elm7 Northern District of Texas Ft. Worth Thu Jun 6 15:41:03 CDT 2019	Navy Federal Credit Union PO Box 3502 Merrifield, VA 22119-3502	Securities and Exchange Commission 175 West Jackson Blvd., Ste 900 Chicago, IL 60604-2908
Texas Workforce Commission Jay W. Hurst c/o Sherri K. Simpson, Paralegal P.O. Box 12548 Austin, TX 78711-2548	501 W. Tenth Street Fort Worth, TX 76102-3637	Attorney General of Texas Bankruptcy Div PO Box 12548 Austin, TX 78711-2548
(p)TEXAS COMPTROLLER OF PUBLIC ACCOUNTS REVENUE ACCOUNTING DIV - BANKRUPTCY SECTION PO BOX 13528 AUSTIN TX 78711-3528	EDU Tax Advisors, LLC 7117 US 31 South, Indianapolis, IN 46227-8536	Heathcare Advocates Inc. 1722 Routh St., Suite 1500 Dallas, TX 75201-2532
Internal Revenue Service Centralized Insolvency Operations P.O. Box 7346 Philadelphia, PA 19101-7346	Internal Revenue Service Mail Code DAL-5020 1100 Commerce Street Dallas, Texas 75242-1100	Lending Club 71 Stevenson St., Suite 300 San Francisco, CA 94105-2985
Navy Federal Credit Union 5102 N. President George Bush Hwy Garland, TX 75040-2795	Rebecca R. Novinger 312 Dover Heights Trail Mansfield, TX 76063-7584	Reputation Management Consultants, Inc. 92 Corporate Park Ste C700 Irvine, CA 92606-5146
Reputation Management Consultants, Inc. c/o law Office of J.D. Cuzzolina, Esq. 5753G Santa Ana Canyon Road #297 Anaheim Hills, CA 92807-3296	Securities and Exchange Commission co Sonia A. Chae 175 West Jackson Blvd., Suite 900 Chicago, Illinois 60604-2815	Texas Workforce Commission 101 E. 15th St., Room 556 Austin, TX 78701-1442
Texas Workforce Commission Jay W. Hurst, Asst. Attorney General c/o Sherri K. Simpson, Paralegal P.O. Box 12548 Austin, TX 78711-2548	Texas Workforce Commission Regulatory Integrity Division - SAU Room 556 101 E. 15th Street Austin, TX 78778-0001	U. S. Trustees Office 1100 Commerce Street Room 9C60 Dallas, TX 75242-0996
US Attny. General 10th and Constitution Ave., NW Main Justice Bldg. Rm. 5111 Washington, DC 20530-0001	US Securities and Exchange Commission B. David Fraser Burnett Plaza, Suite 1900 801 Cherry St., Unit 18 Fort Worth, TX 76102-6882	United States Trustee 1100 Commerce Street Room 976 Dallas, TX 75242-0996
Christopher A. Novinger 312 Dover Heights Trail Mansfield, TX 76063-7584	John Dee Spicer Suite 560, Founders Square 900 Jackson Street Dallas, TX 75202-4404	Joyce W. Lindauer Joyce W. Lindauer Attorney, PLLC 12720 Hillcrest Road Suite 625 Dallas, TX 75230-2163

The preferred mailing address (p) above has been substituted for the following entity/entities as so specified by said entity/entities in a Notice of Address filed pursuant to 11 U.S.C. 342(f) and Fed.R.Bank.P. 2002 (g)(4).